CHAPTER 29-07
PRELIMINARY EXAMINATIONS

29-07-01. Magistrate's duty - Testimony may be taken.
Superseded by N.D.R.Crim.P., Rules 5, 44.

29-07-01.1. Payment of expenses for defense of indigents - Indigent defense administration fund - Continuing appropriation.

1. Lawyers provided to represent indigent persons must be compensated at a reasonable rate to be determined by the commission on legal counsel for indigents. Expenses necessary for the adequate defense of an indigent person prosecuted in district court, other than for a violation of a home rule county's ordinance, when approved by the commission, must be paid by the state. Expenses necessary for the adequate defense of an indigent person prosecuted for violation of a home rule county's ordinance must be paid by the home rule county. Expenses necessary for the adequate defense of an indigent person prosecuted for a violation of a municipal ordinance, when approved by the judge, must be paid by the city in which the alleged offense took place. The city shall pay the expenses in any matter transferred to district court under section 40-18.1-18, 40-18.1-23, 40-18.1-24, or 40-18.1-25, in any appeal taken to district court from a judgment of conviction in municipal court under section 40-18.1-19 or 40-18.1-20, and in an appeal or postconviction matter seeking relief from a conviction resulting from violation of a municipal ordinance. A defendant requesting representation by counsel at public expense, or for whom counsel provided at public expense without a request is considered appropriate by the court, shall submit an application for indigent defense services.
2. The indigent defense administration fund is a special fund in the state treasury. The state treasurer shall deposit in the fund all application fees collected under subsection 1. All moneys in the indigent defense administration fund are appropriated on a continuing basis to the commission on legal counsel for indigents to be used in the administration of the indigent defense system.

29-07-02. Waiver of examination.
Superseded by N.D.R.Crim.P., Rule 5.

29-07-03. Examination of witnesses.
If the accused waives preliminary examination, the state's attorney may cause the testimony of any witness or witnesses to be taken in writing as is provided by law, with the same force and effect as if such examination had not been waived. Such testimony must be returned by the magistrate to the district court of the magistrate's county as in other cases.

29-07-04. Magistrate must allow accused counsel.
Superseded by N.D.R.Crim.P., Rules 5, 44.

29-07-05. The preliminary examination.
Superseded by N.D.R.Crim.P., Rule 5.

29-07-06. Change of place of hearing - Procedure.
Whenever a person accused of a public offense is brought before a municipal judge for examination, and, at any time before the examination is commenced, the person files with the municipal judge an affidavit stating that by reason of the bias or prejudice of the municipal judge the person believes a fair or impartial examination cannot be had before the municipal judge, the municipal judge shall transfer the action, and all the papers therein, including a certified copy of the municipal judge's docket entries, to a district judge serving the county. The state's attorney, or assistant state's attorney, in the same manner and for the same reasons as the defendant, may obtain a transfer of the action from the municipal judge before whom the action

was commenced, or from the district judge to whom it has been transferred on the application of the state, in which event it must be transferred to another district judge designated by the presiding judge of the judicial district. The place of examination cannot be changed more than once by each party under this section.

29-07-07. Adjournment - Three days limit.
Superseded by N.D.R.Crim.P., Rule 5.

29-07-08. Disposition of accused on adjournment.
Superseded by N.D.R.Crim.P., Rule 5.

29-07-09. Commitment for examination.
Superseded by N.D.R.Crim.P., Rule 5.

29-07-10. Summoning of witnesses.
Superseded by N.D.R.Crim.P., Rule 5.

29-07-11. Procedure on examination - Reading complaint.
Superseded by N.D.R.Crim.P., Rule 5.1.

29-07-12. How witnesses examined.
Superseded by N.D.R.Crim.P., Rule 5.1.

29-07-13. Witnesses kept separate - Exclusion during the examination of any witness.
The magistrate may exclude all witnesses who have not been examined. The magistrate also may cause the witnesses to be kept separate and to be prevented from communicating with each other until all are examined.

29-07-14. Persons not excluded.
The magistrate holding a preliminary hearing, upon the request of the defendant, may exclude from the examination every person except the magistrate's clerk, the prosecutor and the prosecutor's counsel, the attorney general of the state, the state's attorney of the county, the defendant and the defendant's counsel, and such other person as the defendant may designate, and the officer having the defendant in custody, but such exclusion, and the extent thereof, is within the discretion of the court.

29-07-15. Testimony reduced to writing - Conditions - Payment.
Superseded by N.D.R.Crim.P., Rule 5.1.

29-07-16. Accused may produce witnesses after state concludes testimony.
Superseded by N.D.R.Crim.P., Rule 5.1.

29-07-17. Keeping and disposition of depositions - Violation is a misdemeanor.
Superseded by N.D.R.Crim.P., Rule 5.1.

29-07-18. Procedure - Accused discharged.
Superseded by N.D.R.Crim.P., Rule 5.1.

29-07-19. Costs taxed when prosecution malicious.
Superseded by N.D.R.Crim.P., Rule 5.1.

29-07-20. Accused held to answer.
Superseded by N.D.R.Crim.P., Rule 5.1.

29-07-21. If offense not bailable defendant committed.
Superseded by N.D.R.Crim.P., Rule 5.1.

29-07-22. When offense bailable.
Superseded by N.D.R.Crim.P., Rule 5.1.

29-07-23. When bail not taken.
Superseded by N.D.R.Crim.P., Rule 5.1.

29-07-24. Commitment - Procedure.
Superseded by N.D.R.Crim.P., Rule 5.1.

29-07-25. Form of commitment.
Superseded by N.D.R.Crim.P., Rules 5.1, 58.

29-07-26. Magistrate must deliver papers to district court.
Superseded by N.D.R.Crim.P., Rule 5.1.

29-07-27. Charge investigated by magistrate if corporation appears.
Superseded by N.D.R.Crim.P., Rule 5.1.

29-07-28. Appearance by corporation - Hearing - Certificate of magistrate - Procedure.
Superseded by N.D.R.Crim.P., Rule 5.1.

29-07-29. Return of certificate of probable cause - Procedure.
Superseded by N.D.R.Crim.P., Rule 5.1.

29-07-30. Information or indictment against corporation without preliminary hearing.
Superseded by N.D.R.Crim.P., Rule 5.1.

29-07-31. Effect of failure by corporation to answer summons.
Superseded by N.D.R.Crim.P., Rule 5.1.

29-07-32. Record of magistrate to be kept on docket.
Superseded by N.D.R.Crim.P., Rule 5.1.